

TITLE 10. CALIFORNIA DEPARTMENT OF CORPORATIONS

NOTICE IS HEREBY GIVEN

The Commissioner of Corporations (Commissioner) proposes to make clean-up amendments to the regulations under the Corporate Securities Law of 1968, California Finance Lenders Law, California Residential Mortgage Lending Act and California Deferred Deposit Transaction Law. The Commissioner proposes to amend Sections 260.102.8(b), 260.103.6, 260.105.15, 260.113, 260.140.8(b)(4), 260.140.42(e), 260.140.71.2, 260.140.114.1(c), 260.151(a), 260.236(c)(3)(C), 260.608, 1457(d), 1950.122.1, 2020(c) and 2030; to amend the Note after Subchapter 6 of the California Finance Lenders Law; and to repeal Sections 250.50 and 250.51 of Title 10 of the California Code of Regulations.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person, or his or her duly authorized representative, may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' (Department) contact person, designated below, no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department addressed to Karen Fong, Office of Legislation and Policy, Department of Corporations, 1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., June 15, 2009. Written comments may also be sent to Karen Fong via electronic mail at regulations@corp.ca.gov or via fax at (916) 322-5875. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

This rulemaking action makes various technical and clarifying amendments to the regulations administered by the California Corporations Commissioner. All references are to sections within Title 10 of the California Code of Regulations.

General Provisions:

Sections 260.50 and 250.51

The proposed amendments repeal Sections 250.50 and 250.51, which implemented the Permit Reform Act, as a result of the repeal of this act in 2003 by AB 1757 (Chapter 229, Statutes of 2003).

Corporate Securities Law of 1968:

Sections 260.140.114.1(c), 260.151(a), and 260.608

The proposed amendments to these sections make non-substantive, grammatical and typographical corrections.

Section 260.102.8

The proposed amendments to Section 260.102.8 incorporate the changes to the notarial acknowledgment under Civil Code Section 1185 as a result of AB 886 (Chap. 399, Stats. 2007), and make other clarifying changes to the form.

Section 260.103.6

The proposed amendments to Section 260.103.6 incorporate the changes to Corporations Code Section 25103(h) made by AB 1894 (Chap. 201, Stats. 2000), which recognized a securities exemption for entities converting to another organizational structure.

Section 260.105.15

The proposed amendments to Section 260.105.15 incorporate the qualification exemption in Section 25103(b) for securities issued by entities other than corporations.

Section 260.113

The proposed amendments to Section 260.113 provide that, in the application for qualification by permit, all prior securities issuances exempt from qualification under subdivisions (n) and (o) of Corporations Code Section 25102 must be described.

Section 260.140.8(b)(4)

The proposed amendments to Section 260.140.8(b)(4) provide greater flexibility to a securities issuer with respect to the right to repurchase securities under a compensatory benefit plan upon termination of employment, by permitting general partners and trustees to be subject to additional restrictions in the same manner as corporate officers and directors.

Section 260.140.42(e)

The proposed amendments to Section 260.140.42(e) provide that a compensatory benefit plan or agreement may be approved 12 months after the issuance of a security under the plan.

Section 260.140.71.2

The proposed amendments to Section 260.140.71.2 add a requirement that mutual water company securities issuers agree to comply with Corporations Code Section 14300, which among other things provides that securities issued by mutual water companies are appurtenant to the land.

Section 260.236(c)(3)(C)

The proposed amendments to Section 260.236(c)(3)(C) capitalize CERTIFIED FINANCIAL PLANNER pursuant to a request by the Certified Financial Planner Board of Standards, Inc., which indicates that trademark usage regulations recommend that CERTIFIED FINANCIAL PLANNER be written in capital letters, as it denotes a special status as trademark and differentiates it from other designations that are merely titles.

California Finance Lenders Law:

Note after “Subchapter 6. California Finance Lenders Law (Finance Company Rules)”

The proposed amendments to the Note after Subchapter 6 of the Commissioner’s rules make technical corrections to the note. Two rules applicable to loans of more than \$5,000 under Section 1570 of the rules are missing from the note after Subchapter 6 of the California Finance Lenders Law. The proposed amendments fix this oversight.

Section 1457

The proposed amendments to Section 1457 add a reference to Civil Code Section 2948.5 in order to avoid a potential conflict between the rule and the Civil Code.

California Residential Mortgage Lending Act:

Section 1950.122.1

The proposed amendments to Sections 1950.122.1, 2 make clarifying changes to the consent to service of process form and its instructions, and incorporate changes to the notarial acknowledgement in Civil Code section 1189 made by AB 886 (Chap. 399, Stats. 2007).

California Deferred Deposit Transaction Law:

Sections 2020 and 2030

The proposed amendments to Sections 2020 and 2030 make clarifying changes to the verifications required under these rules, as a result of the amendments to Civil Code Section 1189 made by AB 886 (Chap. 399, Stats. 2007).

AUTHORITY

Sections 25102, 25102(h), 25102(o), 25105, 25113(b), 25140, 25165, 25236(a), 25237, 25608, 25610, 25612, 25612.5, and 35006 Corporations Code; Sections 123000, 17400, 22150, 23015, 30006 and 50304, Financial Code; Sections 15376 and 15378, Government Code; and Statutes of 1983, Chapter 859, Section 9.

REFERENCE

Sections 25102, 25102(h), 25102(o), 25103(h), 25105, 25110, 25113, 25140, 25151, 25160, 25165, 25230, 25230.1, 25236, 25237, 25608, 25608(y), 25608(z), 25610, 25612.5, 25613, 25620 and 35006 Corporations Code; Sections 1189 and 2948.5, Civil Code; Sections 12300, 17400, 22000, et seq., 22150, 22300, 22303, 22306, 22307, 22326, 23005(b), 23015, 23026, 30006 and 50122, Financial Code; Sections 15376 and 15378, Government Code; Section 11077.1, Penal Code; Chapter 40, Statutes 1990; Chapter 1035, Statutes 1990; and Chapter 201, Statutes 2000.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date that the Department adopts the regulation(s). A request for a copy of any modified regulation(s) should be addressed to the contact person

designated below. The Commissioner will accept written comments on the modified regulation(s) for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend, or repeal the foregoing proposal substantially, as set forth above, without further notice.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 17/03 - B. An initial statement of reasons for the proposed action, containing all the information upon which the proposal is based, is available from the contact person designated below. Request Document PRO 17/03 - C. These documents are also available at the Department's website at www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Legislation and Policy maintains the rulemaking file, which is available for public inspection at the Department of Corporations, Office of Legislation and Policy, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available. Copies may be requested from the contact person named in this notice or accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed action.

FISCAL IMPACT

- Cost or savings to any state agency: none.
- Direct or indirect costs or savings in federal funding to the state: none.
- Cost to local agencies and school districts required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: none.
- Other nondiscretionary costs/savings imposed on local agencies: none.
- Costs to private persons or businesses directly affected: insignificant or none.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not affect small businesses.
- Does not impose a mandate on local agencies or school districts, or a mandate that is required to be reimbursed pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting

- businesses, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department of Corporations is not aware of any adverse cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

It has been determined that the amendments to the Corporate Securities Law of 1968 will not affect small businesses. The amendments to the rules make clarifying changes to various instructions and filings, and grammatical and typographical corrections.

It has been determined that the amendments to the California Finance Lenders Law will not affect small businesses. Finance lenders are excluded from the definition of small business in Government Code section 11342.610(b)(1).

It has been determined that the amendments to the California Residential Mortgage Lending Act will not affect small businesses. Residential mortgage lenders and residential mortgage loan servicers are excluded from the definition of small business in Government Code section 11342.610(b)(1).

It has been determined that the amendments to the California Deferred Deposit Transaction Law will not affect small businesses. Deferred deposit originators are excluded from the definition of small business in Government Code section 11342.610(b)(1).

CONTACT PERSON

Inquiries concerning this action may be directed to Karen Fong, Staff Services Analyst, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814, (916) 322-3553. The backup contact person is Tanya Bosch at (916) 322-3553.

Dated: March 18, 2009
Sacramento, California

Colleen Monahan
Deputy Commissioner
Office of Legislation and Policy